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4 UNITED STATES PATENT AND TRADEMARK OFFICE
5 BOARD OF PATENT APPEALS AND INTERFERENCES
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8 Patent Interference 105,592 McK
9 Technology Center 1600
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12 CENTOCOR, INC.
13 (Inventors: Jill Giles-Komar *et al.*)
14

15 Application 10/912,994,
16 Junior Party,
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18 v.
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20 ABBOTT GmbH & CO., KG,
21 (Inventors: Jochen Salfeld *et al.*)
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23 Patent 6,914,128,
24 Senior Party,
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27 *Before: FRED E. McKELVEY, Senior Administrative Patent Judge,*
28 *and RICHARD E. SCHAFER and SALLY GARDNER LANE,*
29 *Administrative Patent Judges.*
30

31 McKELVEY, *Senior Administrative Patent Judge.*
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33 JUDGMENT

34 Upon consideration of the record, and for the reasons given in
35 MEMORANDUM OPINION (Final Decision—Decision on Abbott
36 Motion 7) (Paper 417), it is

1 ORDERED that judgment on priority as to Count 1 (the sole
2 count in the interference; Paper 1, page 5) is awarded against Junior Party
3 Jill Giles-Komar, David M. Knight, David Peritt, Bernard Scallon,
4 David Shealy and Centocor, Inc.

5 FURTHER ORDERED that Junior Party Jill Giles-Komar,
6 David M. Knight, David Peritt, Bernard Scallon, David Shealy and
7 Centocor, Inc. is not entitled to a patent containing claims 1, 102 and 103
8 (corresponding to Count 1) of:

9 application 10/912,994
10 filed 6 August 2004

11 FURTHER ORDERED that claims 1, 102 and 103 of
12 application 10/912,994 are finally refused. 35 U.S.C. § 135(a).

13 FURTHER ORDERED that if there is a settlement agreement,
14 attention is directed to 35 U.S.C. § 135(c).

15 FURTHER ORDERED that a copy of (1) Paper 417,
16 (2) Paper 418, and (3) this JUDGMENT and shall be placed in the files
17 of (a) application 10/912,994 and (b) U.S. Patent 6,914,128.

18 Summary of decisions on motions

19 Centocor Motion 1 seeking judgment based on unpatentability over
20 the prior art—denied for the reasons given in Paper 418.

21 Centocor Motion 2 seeking to exclude evidence—dismissed as being
22 unnecessary to decide.

23 Centocor Motion 3 seeking judgment based on priority—dismissed as
24 moot in view of the granting of Abbott Motion 7.

25 Centocor Motion 4 seeking to strike part of Abbott Opposition 3—
26 dismissed as moot in view of the dismissal of Centocor Motion 3.

1 Centocor Motion 5 seeking to exclude evidence—granted in part and
2 denied in part for the reasons given in Paper 416.

3 Abbott Motion 1 for judgment based on unpatentability over the prior
4 art—denied for the reasons given in Paper 418.

5 Abbott Motion 2 for judgment based on lack of written description—
6 dismissed as moot.

7 Abbott Motion 3 for judgment based on inequitable conduct—denied
8 for the reasons given in Paper 127, Paper 184 and Paper 191.

9 Abbott Motion 4 to strike Centocor Reply 1—discussed as moot since
10 Abbott has prevailed on Centocor Motion 1.

11 Abbott Motion 5 to exclude evidence—dismissed as moot.

12 Abbott Motion 6 for an extension of time—denied for the reasons
13 given in Paper 185.

14 Abbott Motion 7 for judgment based on priority—granted for the
15 reasons given in Paper 417.

16 Abbott Motion 8 to exclude evidence—dismissed as moot.

1 105,592
2 (cc via electronic mail)
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